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Nola Hicks  
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Associate Regional Counsel S-14J  
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Subject: General Industries Property at 154 Olive Street Elyria, OH  
Response to Administrative Order - Docket No. V-W-09-C-929  
Conference Call - July 14, 2009

Dear Attorney Hicks,

I am writing in response to the Administrative Order (AO) to clarify several points of inaccuracy in the section of the AO that presents the facts that form the basis for the final decree.

First, it is Mr. Peshek's intention to safely remove the chemical and asbestos hazards and to return this property into an active commercial enterprise. It is my intention to assist him in this regard as well as my professional responsibility to ensure this project is carried out in a responsible and cost-effective manner. We raise no question regarding following the appropriate EPA and OSHA regulations which mostly establish the standard of care.

Further, it is my intention to work very closely with the USEPA and the OEPA to see this project through. I am appreciative of all their efforts.

With this understanding, it appears that the AO is based upon several misleading and inaccurate premises which were not evident until your document was laid to paper. These statements are in Section III of the AO entitled: "Findings of Fact".

1. Page 2; No. 4: This statement is misleading in two ways. First, the asbestos noted in the April 2004 survey (Smalley & Associates) is still intact in the east building of the three that remain standing. Second, the buildings to the east were noted to be asbestos free according to this survey. This includes the roof as well as the interior spaces. The implication of the statement in the AO implies that there was asbestos containing materials (ACM) involved directly in the fire in these particular buildings. This was not the case. In fact, this significantly reduces the amount of the entire building structure that has asbestos. To clarify further, the asbestos present in the still existing building was wrapped/painted in orange covering. Some of this thermal insulation (TSI) is damaged but easily repairable with minimal effort. Much of this pipe is below a 4" slab of concrete which forms the floor of the building and the ceiling of a mechanical space which is a one-half level below grade. This pipe will be repaired as part of the project

*The information included in the Smalley & Associates report indicates that the entire east buildings which were actually involved in the hottest area of the fire were asbestos free. The area that contains asbestos insulation remains standing and will be repaired and returned to service*

when the project has been completed. This also decreases the amount of asbestos available for release.

2. Page 2; No. 6: This statement is questionable in two ways. First, it is my understanding that the buildings did not actually collapse as a result of the fire as stated; instead they were toppled through the efforts of the Elyria Fire Department after the fire had been extinguished. Given the intense heat of the fire and the defensive position of the 24 responding fire departments, it seems impossible that the buildings would have been pushed over by any contractor before the fire had been extinguished. Secondly, as this AO addresses the asbestos health hazard, the implication of this statement is that asbestos was spread over people's lawns and property. I would posit that this is possible, but given that the Elyria Department of Health instructed people that there was, "no danger" to pick up these materials and place them into a plastic bag for disposal. Would this message have been delivered if the material was asbestos containing?

*While the fire was undoubtedly a disaster, site knowledge appears to indicate the asbestos on site is in relatively defined locations and not spread throughout the site. This reduces the threat of a release of material because the roofing material was cooler and therefore more solidified when the building was collapsed. This also lends itself to further sampling in order to more accurately define the true scope of contamination.*

3. Page 3; No. 10: Securing the two existing locations where individuals could easily enter the site will be secured within days. These locations are at the northwest corner facing the railroad property and at the east end of the south property line (Taylor St). This statement number 10 is misleading in the following manner: The site does not have public access on all sides. In fact, the entire east side remains as it was prior to the fire, the adjoining property of Aztec Steel and Elyria Plastic Company at 800 and 710 Taylor Street respectively. The north side also has not changed since prior to the fire and has had a permanent cyclone fence installed. The temporary fence erected on Olive and also on Taylor streets and has been effective at keeping pedestrian traffic on the opposite side of Taylor street.

*This site has been relatively stable since the fire incident. Luckily, except for the EPA - recognized effort last summer to remove some manufacturing equipment from the site, there has been little disturbance of the site. Our intent is to actually make the site much more secure by closing the two access points and placarding the site with required signage. Also with the increased regular daily activity, there will be far less enticement for vandals to commit their random acts.*

4. The OEPA has sampled the site for asbestos on two occasions; July 8<sup>th</sup> and August 11<sup>th</sup>, These samples are not inconsistent with our understanding of the building materials present. These samples were collected on both occasions by Mr. Jim Veres. Five of the eleven samples collected on July 9<sup>th</sup> were negative for asbestos containing materials including insulation material from a rubble pile. The asbestos is present in defined areas such as the room furthest east of the remaining buildings, not universally spread around the 150000 square foot site. This east room is where the positive TSI samples were collected both by Mr. Veres OEPA and by Smalley & Associates in 2004 as referenced earlier in No.1. Likewise when sampling was conducted on the August 11<sup>th</sup> date, all samples were collected from the room furthest east of the remaining structures. The room sampled lost one third of its roof in the fire, while the walls and floor area remain intact. The roof contains asbestos but the containment and cleanup of one room is significantly different from asbestos roofing spread throughout the entire site. The limited areas sampled confirm what we projected would be the case; namely that the west building parallel to Olive Street has an ACM containing roof.

Up to this time, there have been no samples collected on the East side at all nor samples taken from the south - the longest - side of the property line.

*These areas according to Mr. Peshek and available information, including EPA approved formal asbestos surveys, are asbestos free significantly, the roofing materials. Again, this reduces the threat to the environment or the local residents and businesses.*

In summary, there is no argument or resistance about the proper handling of asbestos containing materials. The regulation, from both EPA and OSHA, are well established. It appears that after additional reflection of the factors pertaining to this fire incident and the property, that the asbestos contamination may not be spread throughout the 150,000 acre site. It is more probable, given the known or suspected presence of ACM that there are defined pockets. These will be elucidated through additional sampling according to our work plan.

Also the prevailing winds are from the West moving East. All the residential units are on south of the property. Therefore, it would be improbable to have residents contaminated by wind-blown asbestos. All practical steps will be taken to avoid any significant release of suspect ACM during the work processes. In addition, our team will be collecting real-time air data to verify the actual site conditions during work activities.

We would request a relaxing of the financial requirements, which ironically, are hampered significantly by the AO itself. As stated, it is Mr. Peshek's intent to safely and properly clean up the site in order to restore it to a profitable commercial status. However, given the amount and expected nature and expected volume of asbestos contamination, it is not necessary to waste large sums of money to safely control this site. We appreciate the cooperative spirit of the USEPA in this effort and invite this continued understanding as we move forward to define the clean up and the end point to be reached.

Thank you for your assistance and any consideration regarding this project.

Regards,

Robert F. Walter  
Industrial Hygiene Consultant

cc: Jim Augustyn  
Bob Princic  
John Peshek  
Jack Vasi  
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